

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

LUIS A. ACEVEDO GARCIA, ET ALS.

Plaintiffs

vs.

**HON. ROBERTO VERA-MONROIG,
ET ALS.**

Defendants

Civil No.: 97-2639(JP)

MOTION

TO THE HONORABLE COURT:

COMES NOW plaintiffs, through the undersigned attorney, who very respectfully states and prays as follows:

In the above entitled case it was stipulated by the parties that this Honorable Court will retain jurisdiction to enforce the final judgment (489).

On March 19, 2007 we filed a motion requesting the enforcement of the judgment (491), we inform the Court that some of the plaitniffs were ill and that we fear that they will not be able to see the payment of the Judgment they are legally entitled to, because of their age and their illness.

Today we inform this Honorable Court that plaintiff Jose D. Betancourt Ortiz passed away and his dreams to collect this judgment to live a better life with his family and friends will never be realize. Ironically not even the last payment of the partial judgment that defendant deposited on May 15, 2008, he was unable to collect, as of today this check

have not been issued. We asked defendant's counsel that instead of filing the payment with the Court's clerk to make the payment directly to plaintiffs in order to avoid the procedure of issuing new checks by the clerk. We made this request precisely because of the critical condition of plaintiffs Jose D. Betancourt Ortiz. We know that sister counsel Eveleyn Quiñones recommended that the payment be made directly to plaintiffs. The Mayor chose the procedure of filing the payment at the clerk's office with full knowledge that this will delay the receiving of the payment by plaintiffs.

To make things even worst we have a factual situation. The Mayor of Adjuntas, is under the impression that this court will not enforce the payment and that the only thing that he has to do is make the partial payments that he proposed when he filed his payment plan (555). We object this plan (559) pursuant to the court previous order (524) and requested a hearing as it was ordered.

On April 7, 2008 this Honorable Court issued an order (563) taking under abeyance our objection(559) and as of today no hearing has been scheduled.

From worst we go to the absurd.

Defendant requested from the Justice Department the benefits of Law 9 (32 LPRA 2092). On April 18, 2007 (over a year ago) the Justice Department for no valid reason denied this request and the City of Adjuntas through its mayor accepted the Justice Department's arguments and did nothing to have this decision revoked or reconsidered. We suggested to defendant's counsel that they could file a Mandamus claim in State Court (32 LPRA 3421) or to request a reconsideration to the Secretary of Justice because the reasons given were not correct. None of this happened.

From the absurd we go to the ridicules.

The Mayor of Adjuntas is publicly saying that this Court will not force him to pay because he was not the mayor that dismissed the plaintiffs. That to the contrary every time we have had a meeting in Chambers the Judge congratulates him, pat him on his back and tells him that he listens to his political radio programs and that he is doing a good job that he is not to worry. He is not only telling these lies but also stating that the subscriber as counsel for plaintiff is losing his time in trying to enforce the payment of the judgment. The effect that these continuous comments by the mayor is having on plaintiffs is detrimental to the extent that some of them are questioning the effectiveness of my work as their counsel.

We offer our help to defend in their responsibility to pay the judgment. But the fact is that there is nothing we can do because the Court has not enforced the payment of the judgment. Law 9, as to the payment of a judgment is activated only if the municipality cannot pay the judgment. In other words if this Court does not order that the payment be made and to the contrary allows that the judgment be paid under the terms and conditions that the Municipality of Adjuntas presents in their payment plan, Law 9 cannot be invoked because the city can pay the Judgment in the way they proposed even if it takes 14 years and many plaintiffs (as stated before) because of their age and illness will not live to see the end of these payments.

In the last two years we have requested from this Honorable Court to order the Mayor of Adjuntas to include in his budget the payment of this Judgment. Although this Court has granted our motions the only real effect is that the mayor amends the budget to include the Judgment but makes no real assignment of funds in order to pay the same and activate Law 9 as previously stated.

The new budget presented by the Mayor of Adjuntas does not include the payment of this Judgment although it includes an assignment of \$620,000.00 because as stated before he claims that this is his only obligation and he has the blessing of this Honorable Court.

Its unbelievable that the mayor is making no real effort to face the seriousness of the payment of this Judgment instead in the new budget the mayor proposes as follows. In expenses of public image and public relations the mayor propose to spend \$12,000.00. In donations and festivities he propose to spend \$684,000.00 which is more than what he proposed for the payment of this Judgment. In retaining non-professional services the mayor plans to spend \$386,000.00. In non-identified miscellaneous expenses the mayor plans to spend around \$50,000.00. Without making an in depth study of the mayor's proposed 2008-2009 budget here we mention \$1,132,000.00 of non-essential expenses that this Court can order to be included for the payment of the Judgment.

Any municipality that is faced with the payment of a Judgment and that has a clear understanding of the seriousness of its obligation to honor the payment of said Judgment the least that can be expected is to make some economies in order to comply with this obligation. Instead the mayor proposes in his new budget to spend around \$3,500,000.00 in salaries alone and as he stated he will not reduce or make economies in this area because this is an election year and for him politics is a priority over the payment of a Judgment.

The City of Yauco is facing a similar problem with the Secretary of Justice where the benefit of Law 9 was denied. But in this case Yauco's Mayor made a serious effort to make economies to the extreme that he reduced his own salary by 50%. Then he went

to State Court with a claim of Mandamus in order to activate Law 9.

Last week Mayor Barlucea and the Human Resource Director of Adjuntas left for Spain and Italy with 11 students from Adjuntas with all expenses paid by the City for 14 days even though there is a Court Order from the State Appeals Court which issued a Judgment stating that in the selection of the students that were to make the trip there were some students that were disqualified because of political reasons. In this two week vacation the mayor will spend over \$50,000.00 of public funds and he tells this Court that he has no money to pay the Judgment.

We began this motion informing the Court of the deceased of plaintiff Jose D. Betancourt. The following plaintiffs have been diagnosed with cancer, heart failure and other life threatening conditions: Angel Munet, Hector Camacho, Luis N. Madera, Sixto Ostolaza, Jesus Aponte, Antonio Ortiz, David Cruz, Hector Madera, Blanca Maldonado, Agustina Arce and Nora Lopez.

Respectfully we call to the attention of this Honorable Court that it was this Mayor, Jaime Barlucea Maldonado who proposed and approved this settlement and told the Court that he would pay the Judgment in 120 days. This agreement as to the amount and the date of payment is included in the Stipulated Judgment.

WHEREFORE, we respectfully requested that this Court enforce the payment of the Judgment either by ordering the assignment of funds so that the Municipality can rightfully and seriously claim the disposition of Law 9 or by ordering that an amount of at least one third of the budget be reserved for the payment of this Judgment which although it will take about 4 years to be paid it will tell the mayor that he cannot continue playing politics and lying about what his obligations as mayor and with this Honorable Court are.

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys on record.

RESPECTFULLY SUBMITTED.

In Aguadilla, Puerto Rico, this 16 day of June 2008.

s/ Israel Roldán González

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